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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/697,728	10/27/2000	Karl C. Huff	WATR-52421.005	7553

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EXAMINER

RIVELL, JOHN A

ART UNIT PAPER NUMBER

3753

DATE MAILED: 03/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/697,728

Applicant(s)

HUFF ET AL.

Examiner

John Rivell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/8/02 (cert. mail. 7/3/01).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27, 34-36 and 39-43 is/are pending in the application.
- 4a) Of the above claim(s) 21-27, 35, 36 and 39-43 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11, 13-18 and 20 is/are allowed.
- 6) ☒ Claim(s) 12, 19 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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Applicant's election with traverse of the invention of Group I, and further species A in Paper No. 8, received February 8, 2002 with a certificate of mailing date of July 3, 2001 is acknowledged. The traversal is on the ground(s) that "claim 34 is believed to (be) generic and therefore respectfully requests that all of the claims of the 3 species identified by the Examiner be examined, as they are each and all believed to be allowable over the prior art of record. This is not found persuasive because, as it concerns the restriction of invention, no persuasive arguments are presented in support of the inventions, as grouped, being in fact not independent and not distinct. As it concerns the further election of species, no persuasive arguments are presented which support the position that the species, as grouped, are not in fact mutually exclusive.

The requirement is still deemed proper and is therefore made FINAL.

Claims 28-33, 37 and 38 have been canceled. Claims 1-27, 34-36 and 39-43 are pending.

In view of the failure to list all claims readable on the elected species, the Examiner has taken the liberty to do so. Of claims 1-27 and 34-36, those claims readable on the elected invention of Group I, Claim 21, and those dependent thereon (e.g. claims 22-27), require a "second recirculating loop comprising... means to bypass a portion of... fluid around said means to suck". Such features are not illustrated in elected species A but rather are shown in non-elected species C, figures 12-13. Claim 35 requires the "control valve positioned in parallel with said venturi in said first recirculation loop" which is not illustrated in elected species A but rather are shown in non-elected species C, figure 12. Claim 36 requires the "control valve positioned in

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series with said filter in said first recirculation loop" which is not illustrated in elected species A but rather are shown in non-elected species B, figure 10.

Thus Claims 21-27, 35, 36 and 39-43 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species or invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 8.

An action on the merits of claims 1-20 and 34 is as follows.

Figure 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 34 is rejected under 35 U.S.C. 102 (b) as being anticipated by Pelmulder.

In Pelmulder, figure 2 illustrates a fluid recirculation system including a filter 9, venturi 20, recirculation loop 11 and control valve 12. Operation of valve 12 "simultaneously regulates" inflow to the venturi from the "loop" and outflow from the filter.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 12 and 19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, the recitation "said flow control valve" is indefinite. Firstly, there is no strict antecedent basis for the recitation "said flow control valve". Secondly, is the term "valve" is meant but should read -- controller --, it is not understood which "controller" is meant i.e. the "first" of "second" controller. In claim 19, the recitation "comprises third pressure sensor" appears misleading in that there is no first and/or second pressure sensor recited within the scope of the claim.

Claims 1-11, 13-18 and 20 are allowed.

Claims 12 and 19 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

It is also noted that in claim 6, line 1, "form" should read -- from --.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

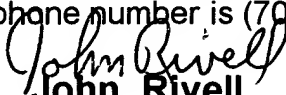
Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Rivell whose telephone number is (703) 308-2599. The examiner can normally be reached on Monday -Thursday between 6:30am and 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Buiz can be reached on (703) 308-0871. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7765 for regular communications and (703) 308-7765 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

j.r.

March 7, 2002


John Rivell
Primary Examiner
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